

REMARKS

Claims 1-16 and 18-79 are pending in the application. Claim 17 has been canceled.

Claims 35-42 and 44-68 are indicated as being allowed, and the applicant thanks the examiner for such action.

Claims 1, 2, 5, 6, 9-17, 29-34 and 43 are rejected in the Office action only under the judicially created doctrine of obviousness-type double patenting in view of commonly owned US patent no. 6,602,202. The applicant herewith submits a Terminal Disclaimer under 37 C.F.R. § 1.130(b) overcoming this rejection of the claims. Claims 1-15, 20, 29-32 and 34 are not otherwise rejected, and are now believed to be allowable. Such action is respectfully requested.

Independent claims 16, 43 and 69 are rejected as being anticipated by or obvious in view of, as the case may be and as set forth in the action, by U.S. Patent 5,916,174 ("Dolphin"). As amended, each of claims 16, 43 and 69 correspondingly recited in connection with methods and apparatus for hearing testing: selection from a plurality of different steady-state evoked response tests a test; creation of a test signal having a component selected to evoke a steady-state response consistent with the selected test and analysis of potentials to determine whether there is data indicative of the presence of an expected steady-state response to the stimulus. Dolphin does not teach or disclose such methods or apparatus.

To sustain the finding of anticipation or unpatentability the examiner must demonstrate that each and every limitation of the claims is taught by a single reference or suggested by the single reference or combination of references. As the Dolphin reference fails to teach or suggest every limitation of claims 16, 43 and 69, as amended, Dolphin does not anticipate or render unpatentable claims 16, 43 or 69. Likewise, claims dependent thereon are also allowable.

Claims 31, 35 and 71, not rejected based upon the prior art, are placed in independent form and are believed to be allowable. Claim 33, previously placed in independent form, is amended to again depend from claim 16 and for the reasons given above is believed to be allowable. Claim 18 is amended for clarity.

The applicant submits claims 1-16 and 18-79 are now in a condition for allowance.

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Amdt. dated July 25, 2006
Reply to Office action of February 27, 2006

In light of the foregoing, the prompt issuance of a notice of allowance is respectfully solicited. Should the examiner have any questions, the examiner is respectfully invited to telephone the undersigned.

Respectfully submitted,

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